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PATENT APPLICATION
Serial No. 09/509,391
Atty. Docket No. 702-000648

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit 1655

In re application of : **ISOLATED AND RECOMBINANT
ANTIMICROBIAL PEPTIDES
THROMBOCIDIN-1 (TC-1) AND
THROMBOCIDIN-2 (TC-2) OR
VARIANTS THEREOF**

Jeroen KRIJGSVELD et al. :
Serial No. 09/509,391 :
Filed July 7, 2000 :
Examiner – Janell Taylor Cleveland :

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Pittsburgh, Pennsylvania
December 21, 2001

ELECTION WITH TRAVERSE

BOX NON FEE AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated September 21, 2001, Applicants submit the Accompanying Petition for Extension of Time and the following response and remarks:

The Examiner asserts that the application contains claims drawn to three inventions or groups of inventions: peptides (Group I, containing claims 1-12 and 16-17), the use of peptides (Group II, containing claims 13-15 and 18-20), and the use of a histag sequence (Group III, containing claim 21).

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Commissioner for Patents, Washington, D.C. 20231 on December 21, 2001

Kimberly N. Welday
(Name of Registered Representative)

Kimberly N. Welday
Signature 12/21/2001
Date

Applicants provisionally elect the claims of Group I (claims 1-12 and 6-17) with traverse in part. The Examiner has stated that the claims are not drawn to a single special technical feature. However, we note that Groups I and II share a technical feature. Claims 1-12 are related to antimicrobial peptides, not to the peptides alone; and claims 13-15 and 18-20 relate to the antimicrobial use of these peptides, i.e., the use of these peptides in the treatment of infections caused by several microbes (bacteria and/or fungi). The antimicrobial nature of the claimed peptides is specifically recited in the preamble of claim 1; the remaining claims of Group I depend from claim 1. Therefore, the claims of Groups I and II share a function, and that election of these two groups with a shared function should be permitted. Claims drawn to the same function do not meet the criteria given for independent inventions under PCT Rule 13.1. In view of the foregoing the applicants respectfully request that the requirement of election between the claims of Groups I and II be withdrawn upon reconsideration.

In view of the above amendment, remarks and response to the restriction requirement, claims 1 to 20 are believed to be in condition for allowance. Allowance of claims 1-20 is respectfully requested.

Respectfully submitted,

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By


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